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I

106TH CONGRESS  
1ST SESSION

# H. R. 131

To amend title XVIII of the Social Security Act to provide for coverage of expanded nursing facility and in-home services for dependent individuals under the Medicare Program.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 6, 1999

Mr. ENGEL introduced the following bill; which was referred to the Committee on the Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend title XVIII of the Social Security Act to provide for coverage of expanded nursing facility and in-home services for dependent individuals under the Medicare Program.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Comprehensive Long-  
5 Term Care Act of 1999”.

1 **SEC. 2. EXPANDED LONG-TERM CARE SERVICES UNDER**  
2 **MEDICARE PROGRAM FOR DEPENDENT INDI-**  
3 **VIDUALS.**

4 (a) IN GENERAL.—

5 (1) PART A.—Section 1812 of the Social Secu-  
6 rity Act (42 U.S.C. 1395d) is amended—

7 (A) in subsection (a)—

8 (i) in paragraph (2)(B), by striking  
9 “subsection (f),” and inserting “subsection  
10 (f) and section 1889,”

11 (ii) by striking “and” at the end of  
12 paragraph (3),

13 (iii) by striking the period at the end  
14 of paragraph (4) and inserting “; and”,  
15 and

16 (iv) by adding at the end the following  
17 new paragraph:

18 “(5) long-term care services consisting of ex-  
19 tended care services (in accordance with section  
20 1889).”; and

21 (B) in subsection (b)(2), by striking “post-  
22 hospital” and inserting “except as provided in  
23 section 1889, post-hospital”.

24 (2) PART B.—Section 1861(s)(2) of such Act  
25 (42 U.S.C. 1395x(s)(2)) is amended—

1 (A) in subparagraph (S), by striking  
2 “and” at the end;

3 (B) in subparagraph (T), by striking the  
4 period at the end and inserting “; and”; and

5 (C) by inserting after subparagraph (T)  
6 the following new subparagraph:

7 “(U) long-term care services consisting of in-  
8 home care (in accordance with section 1889);”.

9 (b) DESCRIPTION OF SERVICES; ELIGIBILITY.—Title  
10 XVIII of such Act is amended by inserting after section  
11 1888 the following new section:

12 “LONG-TERM CARE SERVICES FOR DEPENDENT  
13 INDIVIDUALS

14 “SEC. 1889. (a) IN GENERAL.—An individual enti-  
15 tled to benefits under this part shall be entitled to have  
16 payments made on the individual’s behalf for long-term  
17 care services if—

18 “(1) the individual is a dependent individual;  
19 and

20 “(2) such services are provided in accordance  
21 with a case management plan developed by a case  
22 management agency.

23 “(b) SERVICES PROVIDED.—In this section, the term  
24 ‘long-term care services’ means—

25 “(1) in-home care (as defined in subsection (e));  
26 and

1           “(2) extended care services (as defined in sec-  
2           tion 1861(h)), but only with respect to a chronically  
3           dependent individual.

4           “(c) PAYMENT FOR SERVICES.—

5           “(1) IN GENERAL.—Subject to paragraph (2),  
6           the amount payable for long-term care services  
7           under this section shall be determined in accordance  
8           with a fee schedule for such services established by  
9           the Secretary.

10          “(2) IMPOSITION OF DEDUCTIBLE.—The  
11          amount otherwise payable for long-term care services  
12          under this section furnished during a calendar year  
13          shall be reduced by an amount equal to the deduct-  
14          ible imposed for inpatient hospital services for the  
15          year under section 1813(a)(1).

16          “(d) DEPENDENT INDIVIDUAL DEFINED.—

17          “(1) IN GENERAL.—In this section, the term  
18          ‘dependent individual’ means an individual who—

19                  “(A) is unable to perform (without sub-  
20                  stantial assistance from another individual) be-  
21                  cause of physical or cognitive impairment at  
22                  least 2 of the following activities of daily living:  
23                  bathing, dressing, toileting, transferring, and  
24                  eating; or



“(B) has a similar level of disability due to cognitive impairment that requires substantial direction, instruction, or supervision of another individual in order—

“(i) to perform 2 or more of the activities of daily living described in subparagraph (A), or

“(ii) to remain in the community without causing harm to self or others because of inappropriate behavioral patterns.

“(2) CHRONICALLY DEPENDENT INDIVIDUAL.—

In this section, the term ‘chronically dependent individual’ means an individual described in paragraph (1) who—

“(A) for purposes of subparagraph (A) of such paragraph, is unable to perform at least 3 of the activities of daily living described in such subparagraph; or

“(B) for purposes of subparagraph (B)(i) of such paragraph, has a level of disability that requires direction, instruction, or supervision of another individual to perform 3 or more of such activities of daily living.

1           “(3) ACTIVITIES OF DAILY LIVING DEFINED.—

2           The ‘activities of daily living’ referred to in this sub-  
3           section are as follows:

4                   “(A) Eating.

5                   “(B) Bathing.

6                   “(C) Dressing.

7                   “(D) Toileting.

8                   “(E) Transferring in and out of a bed or  
9           in and out of a chair.

10          “(e) IN-HOME CARE.—

11               “(1) IN GENERAL.—For purposes of this sec-  
12           tion, the term ‘in-home care’ means the items and  
13           services described in paragraph (2) furnished to an  
14           individual by a home care agency (as defined in sec-  
15           tion 1861(uu)) or by others under arrangements  
16           with them made by the agency provided in a place  
17           of residence used as such individual’s home (other  
18           than services described in paragraph (2)(H)).

19               “(2) SERVICES DESCRIBED.—The items and  
20           services described in this paragraph are as follows:

21                   “(A) Nursing care provided by or under  
22           the supervision of a registered professional  
23           nurse.

24                   “(B) Services of a homemaker/home health  
25           aide who has successfully completed a training

1 and competency evaluation program approved  
2 by the Secretary.

3 “(C) Personal care services.

4 “(D) Medical social services.

5 “(E) Physical, occupational, or respiratory  
6 therapy or speech-language pathology.

7 “(F) Medical supplies (other than drugs  
8 and biologicals) and durable medical equipment,  
9 while under such a plan.

10 “(G) Patient and caregiver (including fam-  
11 ily caregiver) education and training to develop  
12 skills necessary to permit the individual to re-  
13 main in the home setting.

14 “(H) Community care services furnished  
15 outside of the place of residence.

16 “(I) Such other home-based items and  
17 services (other than room and board) as the  
18 Secretary may approve.

19 “(f) CASE MANAGEMENT REQUIREMENTS.—

20 “(1) REQUESTS FOR ASSESSMENT.—Each indi-  
21 vidual entitled to benefits under this title (or an-  
22 other person on such individual’s behalf) may re-  
23 quest a case management agency to conduct an as-  
24 sessment under this section to determine whether

1 the individual is a dependent individual or a chron-  
2 ically dependent individual.

3 “(2) DESCRIPTION OF PLANS.—For purposes of  
4 this section, a ‘case management plan’ means, with  
5 respect to an individual, a written plan of care  
6 which—

7 “(A) is established and periodically re-  
8 viewed and revised by a case management agen-  
9 cy; and

10 “(B) reflects the individual’s needs identi-  
11 fied in the assessment under paragraph (1).

12 “(3) CASE MANAGEMENT AGENCY DEFINED.—  
13 In this section, the term ‘case management agency’  
14 means a nonprofit or public agency or organization  
15 (or a nonprofit or public subdivision of such an  
16 agency or organization) certified by the Secretary to  
17 conduct assessments and establish case management  
18 plans under this subsection which—

19 “(A) is experienced in conducting assess-  
20 ments, in establishing and periodically reviewing  
21 and revising case management plans for nurs-  
22 ing facility services and in-home care, and in  
23 coordinating and reviewing the quality of the  
24 provision of such services and care;



1           “(B) is capable of efficiently and effectively  
2 performing directly or through contracts under  
3 paragraph (4) such duties; and

4           “(C) does not provide nursing facility serv-  
5 ices or in-home care and does not have a direct  
6 or indirect ownership or control interest in, or  
7 direct or indirect affiliation or relationship with,  
8 an entity that provides, such services or care.

9           “(4) CONTRACTING OUT CERTAIN FUNC-  
10 TIONS.—The Secretary shall permit a case manage-  
11 ment agency, to the extent necessary to carry out  
12 functions under this section, to provide for assess-  
13 ments and case management plans through con-  
14 tracts with nonprofit or public organizations which  
15 do not provide nursing facility services or in-home  
16 care and do not have a direct or indirect ownership  
17 or control interest in, or direct or indirect affiliation  
18 or relationship with, an entity that provides, such  
19 services or care.”.

20           (c) CONFORMING AMENDMENTS.—(1) Section  
21 1833(a)(1) of such Act (42 U.S.C. 1395l(a)(1)) is  
22 amended—

23           (A) by striking “and (P)” and inserting “(P)”;  
24 and

1 (B) by striking the semicolon at the end and in-  
2 serting the following: “, and (Q) with respect to ex-  
3 penses incurred for services described in section  
4 1861(s)(2)(P), the amounts paid shall be the  
5 amounts determined under section 1889(c);”.

6 (2) Section 1861 of such Act (42 U.S.C. 1395x) is  
7 amended by adding at the end the following new sub-  
8 section:

9 “HOME CARE AGENCY

10 “(uu) The term ‘home care agency’ means a public  
11 agency or private organization, or a subdivision of such  
12 an agency or organization, which is a home health agency  
13 (as defined in subsection (o)) or—

14 “(1) is primarily engaged in providing services  
15 of homemaker/home health aides and personal care  
16 aides;

17 “(2) maintains clinical records on all patients;

18 “(3) in the case of an agency or organization in  
19 any State in which State or applicable local law pro-  
20 vides for the licensing of agencies or organizations of  
21 this nature—

22 “(A) is licensed pursuant to such law, or

23 “(B) is approved, by the agency of such  
24 State or locality, responsible for licensing agen-  
25 cies or organizations of this nature, as meeting

1 the standards established for such licensing;  
2 and

3 “(4) meets such other requirements as the Sec-  
4 retary may find necessary in the interest of the  
5 health and safety of individuals who are furnished  
6 services by such agency or organization and for the  
7 effective and efficient operation of the program.”.

8 (d) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to items and services furnished on  
10 or after January 1, 2000.

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